Winter 2017

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This article takes the opportunity to reflect upon the rapid rise and maturation of local environmental regulation in the Mountain West, which has been one of the country's fastest growing regions in the last twenty-five years. Section I of this article first offers several reasons why local environmental regulation has become popular over the past several decades in the Mountain West. The article then explores several of the key forms of local environmental regulation to emerge. Section II focuses on those local environmental regulations that address living with and preserving access to the natural environment, both of which are among the major reasons why people choose to live in, and move to, the Mountain West. Section III focuses on local environmental regulations that are intended to recognize, map, and plan for natural hazards, such as drought, floods, and wildfire, that are common in the Mountain West. Section IV focuses on those local environmental regulations with which cities seek to "green" the urban environment, such as green building and green infrastructure, both to mitigate and adapt to climate change. Section V focuses on those local environmental regulations that seek to address the legacy and reemergence of "old west" industries, such as hydraulic fracturing and other types of mining. Section VI looks at efforts, successful and otherwise, to engage regionally in environmental planning where rapid development spreads across jurisdictions. The article concludes with several predictions and issues to watch in the next twenty-five years of local environmental regulation in the Mountain West.

I. The Appeal of Local Environmental Regulation in the Mountain West

The traditional narrative of environmental law heavily emphasizes the federal, statutory laws of the Sixties and Seventies that established the modern framework for environmental protection. Those workhorses of the federal system—laws like the Clean Air Act; the Clean Water Act; the Endangered Species Act; the Comprehensive Environmental Response, Compensation, and Liability Act; and the National Environmental Policy Act—still form the bedrock of the environmental movement. The long-term emphasis on environmental response at the federal level has often been premised on concerns over externalities and collective action problems that arise at local

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levels of government,[1] as well as concerns that local officials might not have the resources, or political wherewithal, to handle more complex environmental issues.[2]

Despite the legitimate reasons that guide the preference for federal solutions to environmental problems, the past several decades have seen an unprecedented rise in both the prevalence and scope of local environmental regulations.[3] The new prevalence of this localism in the environmental movement is an oft-unheralded development. While local environmental law has become important throughout the country,[4] in the Mountain West there are several key factors that have spurred its growth within the region.

First, Mountain West states have been transformed by population growth over the last twenty-five years that has made the region as known for rapid urbanization as for wide open spaces. Nevada has been the fastest growing state in the country for the past five decades.[5] Between 1990 and 2000, the five fastest growing states by percentage in the U.S. Census were all in the Mountain West: Nevada (66%); Arizona (40%); Colorado (31%); Utah (30%); and Idaho (29%).[6] Mountain West states also dominated growth between 2000 and 2010 with Nevada (35%); Arizona (24%); Utah (24%), and Idaho (21%) among the top five fastest growing states.[7] This rapid growth may be tempering, however; between 2010 and 2014, population growth "slowed considerably in the Mountain West for the first time in decades."[8]

This growth in Mountain West states has been especially focused on four sprawling mega-regions—those centered around Denver, Las Vegas, Phoenix, and Salt Lake City—as well as three fast-growing, and equally sprawling, mid-sized cities—Reno, Boise, and Albuquerque. These city-regions contain a disproportionate share of their respective states' population. For instance, a 2012 study found that three out of four Nevadans lived in the Las Vegas MSA; roughly two-thirds of Arizona's population resided in the Phoenix MSA; nearly 51 percent of all Coloradoans lived in Denver and its suburbs; 44 percent of New Mexico's population lived in the Albuquerque MSA; 41 percent of Utah's population was concentrated in the Salt Lake City MSA; and 40 percent of all Idahoans lived in Boise's MSA.[9] As a result, the population centers of Mountain West cities are uniquely concentrated in just one or two regions of each state; at the same time, these urban regions often cover vast geographies and are fragmented into numerous local government jurisdictions. These regions' population concentration permits unusual opportunities for local environmental regulation; on the other hand, the combination of sprawl and decentralized governance can necessitate regional cooperation, which can be difficult to foster.

Second, preservation of and access to environmental and recreational amenities offered by the Mountain West's varied terrain is vital to the economic growth of its cities. While Mountain West city-dwellers want to be close to the metropolitan center for work prospects, they also want access to a variety of recreational amenities nearby.[10] Regulations that preserve and provide access to local natural resources are some of the more common forms of local environmental regulations in the Mountain West.[11]

Third, development on the periphery of the Mountain West's urban centers—often referred to as the wildland-urban interface (WUI)—grew expansively in the last 25 years.[12] Such rural

residential development has implications for biodiversity—clustered homes affect the environment far less than spaced-out ranchettes—as well as implications for costs of hazards protection, such as with floods and wildfires.[13] Seeking to address rapid growth at the wildland-urban interface has been another factor driving local environmental regulation.[14] By some estimates, just 14 percent of the WUI of the Mountain West's cities is currently developed; if the rest of the WUI were to develop in the coming decades, significant environmental effects, as well as significant economic resources, would be required to maintain and protect such settlements.[15]

Fourth, Mountain West cities are already dealing with climate change, whether as a result of heightened droughts, increased prevalence of wildfire and floods, loss of snow pack, or urban issues like the heat island effect.[16] According to the *2014 U.S. Climate Change Assessment*, in northern states of the region, annual temperature increases of 3.3°F to 9.7° Fahrenheit are projected by the end of the century, while precipitation is expected to decrease by as much as 12% in some regions and increase as much as 18% in other regions.[17] Summer precipitation is projected to decrease by as much as 30% by the end of the century, which is expected to increase wildfires throughout the northwest.[18] The southern states of the region are already witnessing impacts of climate change: the period since 1950 has been hotter in the southwest than any comparably long period in at least 600 years.[19] Evidence indicates increasingly widespread tree mortality, increased fire occurrence and area burned, and forest insect outbreaks.[20] Higher temperatures and drought have also caused earlier spring snowmelt and shifted runoff to earlier in the year.[21] Summertime heat waves are projected to become longer and hotter, which will affect urban public health through increased risk of heat stress, urban infrastructure through increased risk of disruptions to electric power generation, and impact crop yields and productivity of key regional crops, such as fruit trees.[22] Facing these challenges, Mountain West cities have been among the most aggressive in engaging their changing climates through policies like climate action plans and green building policies, as well as the embrace of local ecosystem services models.[23]

Finally, the Mountain West has a long history of preferring local solutions, a tendency that is no doubt encouraged by the tense relationship with the federal government, which owns from a quarter to over three-quarters of land in Mountain West states.[24] Sometimes the region's localism finds form through vitriolic strains of anti-federalism like sagebrush rebellions and anti-Agenda 21 conspiracy theorists.[25] When that localism takes on a constructive valence, however, it often draws upon the region's emphasis on traditions of openness and disarming friendliness—"out where the smile dwells a little longer, / That's where the West begins"[26]—and investment in community. Such emphasis on community endeavor, which can go unnoticed amidst strident invocations of freedom and liberty, nonetheless has deep roots in regional history. While the granges and oddfellows clubs nourished western rural communities of the past, that emphasis on community continues now in modern urban forms, such as the "civic health club" Warm Cookies of the Revolution. And so, when Westerners have found themselves ignored in Washington and ill-served by poorly-run state legislatures, they have turned to their own cities to ask how they can make a difference at home. In instances like climate

change, they have sought to grow a global movement from the ground up. In this sense, local environmentalism in the Mountain West is emblematic of the region's optimism that governance, even for nation-states, begins with communities first and the knowledge that life in a place provides.

These reasons, among others, have encouraged Mountain West cities to engage environmentalism at the local level. In so doing, many of the region's cities have proven themselves national leaders in thinking through complex issues and re-envisioned the toolkit for environmentalism generally. That these cities and counties have done so despite the fact that none of the Mountain West states have an environmental review statute, such as the California Environmental Quality Act, to mandate environmental analysis of private projects at the local government level, is all-the-more of interest.[27] Here are some examples of how the Mountain West has approached these local environmental regulations in its own way.

II. Living with and Protecting the Environment

Because the idea of the Mountain West is so tied to its landscapes and environment, many local governments in the region have been leaders both in protecting open space as well as access to it. This section reviews several examples that illustrate the breadth of responses over the past several decades.

A. Using Regulation and Collaboration to Protect Wildlife

As historically rural areas of the Mountain West have urbanized, economies in many Western cities moved from an emphasis on agriculture to amenity- and recreation-based tourism. Local governments in these locations increasingly have sought to use their ability to regulate land use under delegated police powers to protect the environment from the negative impacts of encroaching development, which also had the benefit of preserving the amenities and recreational opportunities on which these locations' development was based.

One land use tool that became widely used in the Mountain West is an overlay district intended to protect wildlife. For example, Park County, Colorado, which has both suburban and rural growth nodes, adopted a wildlife habitat overlay and permit-based regulations in the 1990s to protect wildlife and wildlife habitat while allowing new development to move forward. The regulations impose mitigation requirements on all development to ensure that neither wildlife nor wildlife habitat would be degraded. The Wildlife Habitat Regulations allow a waiver from the permit requirement for development that will have minimal impact on wildlife or wildlife habitat, based on a finding of no significant impact to wildlife from the Colorado Division of Parks and Wildlife.[28] This waiver is important because nearly the entire county is designated by the State of Colorado as significant wildlife habitat.

Similarly, Clark County, Nevada used its land use authority to establish the Red Rock Canyon National Conservation Area (RRCNCA), which contains unique geologic features, plants, and animals representative of the Mojave Desert. The county adopted the Red Rock Design Overlay District to minimize the visual impact of development within the area, maintain the rural character and cultural heritage of the community, preserve wildlife habitat, and minimize the impacts of additional traffic.[29] Regulatory requirements to minimize the development impacts on environmentally

sensitive areas include pre-determined building envelopes for lots surrounded by natural areas, and restoration to a condition characteristic of the surrounding native geographical features.[30] Certain slopes of ridgelines are restricted from development to preserve view sheds.[31] Grading is restricted to areas where there is already disturbance from previous extractive industries,[32] and drainage is designed to utilize natural channels unless such a design is impractical.[33] Subdivision maps are required to "respect the undisturbed landforms such as natural washes and hillsides, and all development shall be designed to follow the natural contours of the land."[34] The District also utilizes a tradeable development credits system that would allow a greater number of residential dwelling units to be constructed in an area so long as it does not increase the overall density of residential dwelling units in that area.[35]

There is also an increasing collaboration between levels of government to ensure that protections for wildlife and the environment generally that are imposed as conditions of urban development, which is typically the provenance of local units of government, align with those wildlife and environmental goals of state and federal agencies. For instance, the Western Governors Association has tried to facilitate such collaboration with its Initiative on Wildlife Corridors and Crucial Habitat, which since 2013 has provided valuable maps and data about the movement of wildlife throughout the Mountain West.[36] The data has been used in a variety of ways, such as a Utah collaboration between federal, state, and local governments to design highway crossings for wildlife that would reduce wildlife-vehicle collisions.[37]

B. Using Land Use Regulations to Protect Watersheds

Water quality protection is of paramount importance in the Mountain West where high mountain snowmelt provides the water supply for much of the western United States. Local governments have led the way in protecting water quality through land use regulations aimed at curbing non-point pollution generated by land use activities.

The Town of Crested Butte, Colorado adopted a watershed protection ordinance to protect a watershed from land uses that could pollute the Town's water supply.[38] The Town relied on specific statutory authority to adopt the watershed protection ordinance which allows municipalities to regulate an area five miles upstream from the source of its municipal water supply.[39] Any new development in the watershed area requires a permit from the Town, which is subject to a public hearing, unless it meets terms for a finding of no significant impact.[40] The ordinance contemplates avoidance and mitigation of non-point source pollution and requires the application for the permit to make comprehensive findings with regard to the project's potential effects on the Town waterworks and municipal water supply; surface water quality; ground water quality and quantity; floodplains, wetlands, and riparian areas; terrestrial and aquatic animals and habitat; as well as numerous other requirements including the preparation of an emergency response plan.[41] Applicants must also sign a security agreement with the Town to guarantee compliance with the permit requirements and to ensure that not only the mitigation requirements are performed, but that any impacted areas are "timely and fully restored."[42]

Another example of water quality protection

is the Carson River watershed in Nevada that has set a goal to protect as much floodplain as possible.[43] Carson, Douglas, and Lyon counties have protected 31 percent of their floodplains, or about 12,450 acres.[44] In 1996, Carson City passed its Quality of Life Initiative in which voters approved an increase in the sales tax that provides funding for an Open Space Program. Since 2000, the Open Space Program has acquired and protected hundreds of acres in the floodplain.[45] Douglas County has implemented a transfer of development rights program to encourage development outside of the floodplain.[46] At present, there is little development in the floodplain; however, local governments in the region are doing their best to make clear that if development did enter the floodplain, the eventual result could be a river "confined to an expensive concrete-lined flood channel with little beauty or ecological value."[47]

C. Mitigating Impacts of Water Transfers with Land Use Regulations

The region has pioneered a number of firsts in legal approaches to water use, from the 1922 Colorado River Compact that divvied up the river to the eight states in the agreement, to Idaho's recently completed Snake River Basin Adjudication, which adjudicated 158,000 water claims in over three decades, and which just issued its final unified decree in 2014.[48] Among these innovations are the water rights system in many Mountain West states that have resulted in hundreds of thousands of acre-feet of water being transferred from rural areas to urban areas at the expense of the economy and environment in the basin of origin.

Local governments have also pioneered new approaches to water management. For instance, at the turn of the 21st century, population growth in the Denver, Colorado metropolitan area resulted in plans to divert more water from the headwaters of the Colorado River, which flows west to Mexico, to the Front Range on the east of the Continental Divide. A series of cases over the last several decades have upheld the right of Colorado local governments to apply land use regulations under the Areas and Activities of State Interest Act (AASIA)[49] to address the environmental and socio-economic impacts of water diversion projects. In *City and County of Denver, by and through Board of Water Com'rs v. Board of County Com'rs of Grand County*,[50] the City of Denver sought declaratory judgment that it need not obtain permits to construct or operate water collection and diversion facilities within other local governments' jurisdictions. The Colorado Supreme Court held that AASIA did not unconstitutionally delegate legislative authority to local governments, home rule provisions of the Colorado Constitution did not exempt the city's water projects from local government regulation, and neither provisions of the Act itself nor other Colorado statutes exempted the city from obtaining permits. In *City of Colorado Springs v. Board of County Com'rs of the County of Eagle*,[51] the Colorado Court of Appeals held that since the fundamental objective of AASIA was to allow local governments to regulate the environmental impacts of designated matters of state interest, including municipal and industrial water projects, a county may "regulate construction of water diversion projects located within the county but which transport water to end users outside the county."[52]From then on, both headwater and agricultural counties on the eastern slope adopted land use regulations to protect the basin of origin from negative impacts of out-of-basin diversions,

and from water transfers from agricultural lands to feed the thirsty metropolitan area.[53] Although use of local land use authority to regulate water diversion projects remains controversial, Colorado's first statewide water plan, released in late 2015, at least acknowledges the role of land use planning and regulation in reducing the demand for water.[54]

D. Biking and Pedestrian Paths in and around Town

Local governments have also led the way in creating alternative transportation pathways around cities, and also out of cities, that permit residents to enjoy their environment.

One of the most interesting examples is the effort, beginning in the 1960s, to convert abandoned railroad lines into bike pathways. The so-called "rails to trails" movement began in earnest when, in 1980, the Staggers Rail Act largely deregulated the railroad industry and permitted discontinuation of unprofitable routes.[55] Throughout the 1980s, approximately 4,000 to 8,000 miles of railway lines were abandoned each year.[56] In 1983, Congress amended the National Trails Systems Act and created "railbanking," a tool to preserve inactive corridors for future rail use, while providing for interim trail use.[57] There are now over 21,000 miles of former rail lines now used as biking and walking paths across the United States.[58] In many cases, such abandoned rail rights-of-way provided access to natural areas that had been difficult to access. For example, the Medicine Bow Rail Trail opened in 2007, and winds through the Medicine Bow-Routt National Forest from the Wyoming-Colorado border to near the forest boundary.[59] The trail occupies a segment of an abandoned right-of-way that was built at the turn of the 20th century to accommodate a gold rush.

But the rails-trails movement has hit some significant speed bumps. In March, 2014, the U.S. Supreme Court decided *Marvin M. Brandt Revocable Trust et al. v. United States*,[60] which involved an abandoned railroad corridor formerly on federal land that is now privately owned. In an 8-1 decision, the Court held that when a railroad abandons the right of way granted under the General Railroad Right-of-Way Act of 1875, the landowner who acquired the underlying fee title obtains full rights over the former right of way, because the railroad simply had an easement interest which was terminated by the railroad's abandonment. Although the facts of this case are so peculiar as to limit its general applicability,[61] it is indicative of a greater groundswell of litigation that has overwhelmed the movement. In a 2014 report to Congress, the U.S. Department of Justice noted that it continues to deal with a dramatic expansion of its Rails-to-Trails litigation, in which property owners along railroad corridors allege a taking of their property interests in violation of the Fifth Amendment as a result of the operation of the National Trails System Act."[62] At the time of the report in 2014, the Department was defending "more than 90 such suits, involving approximately 10,000 properties in over 30 states, with estimated aggregate claims in the hundreds of millions of dollars."[63]

But while the rails-trails program faces significant legal challenges, the overarching goal of providing bike and pedestrian access to natural areas remains a priority. For instance, Missoula, Montana has developed an extensive network of bike lanes and pedestrian paths both city-wide and in partnership with the County that achieved a gold level Bicycle Friendly Community designation by the League of American Bicyclists.[64] The bicycle network includes paths connecting neighbor-

hoods and the University of Montana campus to the downtown, parks, and paved trails running through the scenic valley to the towns of Florence and Victor. The City adopted plans that include goals and policies to enhance and expand the network of bicycle and pedestrian facilities.[65] The City's zoning regulations implement the goals and policies of these plans.[66] Also, the City and County entered into a cooperative agreement for transportation planning services, and roadways that are newly constructed or completely reconstructed must comply with the City's Complete Streets Policy to provide for pedestrians, bicyclists, transit users, and motorists.[67]

But even these projects have not been immune from controversy. For instance, since the 1960s, Boise has been building an enviable greenbelt that winds along tens of miles of the Boise River, which forms the spine of development in the region. The greenbelt is connected to a number of paths that permit access to bike trails across federal lands that meander through the region's foothills. Called Ridge to Rivers, the plan is immensely popular in the region.[68] Despite that, a few private property owners do not wish to permit access to bikers along the Boise River, which breaks up several key stretches of the system. In 2015, a state statute was enacted that prevents local governments from using eminent domain to take land "for trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street."[69] This shows that despite the popularity of these trail systems, the Mountain West's proclivities toward property rights can make creating such trails along rivers or into forests a challenging prospect when they must traverse private property.

E. Local Funding for Open Space Acquisition

Mountain West communities have been among the pioneers for funding open space conservation. One notable and influential approach began in 1972 when Jefferson County, Colorado voters approved a one-half of one percent sales tax to fund the open space program.[70] Jefferson County Open Space was the nation's first sales tax-funded county open space program, which now comprises over 54,000 acres.[71] Approximately one-fifth of funds are dedicated to cities and districts that provide park and recreation services and open space, and includes 28 regional parks and a trail system that spans 230 miles.[72] Additionally, 3,177 acres have been preserved through conservation easements on privately owned lands.[73] The Trust for Public Land became an important player in helping take the Jefferson County sales tax funding model to other local governments throughout the region. In 2003, six Colorado communities passed ballot measures to create approximately $253 million in new public funding to protect land for parks and open space through a variety of taxing mechanisms similar to Jefferson County.[74] Among those were Arapahoe County, which instituted a .25% cent sales tax to generate $170 million; the City of Boulder, which instituted a .15% sales tax to generate $51.2 million; and the City of Lafayette, which instituted a .25% sales tax to generate $7 million.[75]

Even in locations with more fiscal restraints on funding in the Mountain West, local communities are finding ways to preserve open space. For instance, when development began to creep out of Boise's Treasure Valley and into its beloved foothills, voters in 2001 passed a two-year levy that raised $10 million for open space preservation, which has since set aside

over 10,750 acres for wildlife habitat, to promote clean water, and to provide recreational opportunities. Through a variety of partnerships with private parties, the City was able to leverage the initial $10 million into over $37 million dollars in property through acquisition, donation, easement, or land exchange. Because of the success of that program, in November 2015, 74% of Boise voters supported the passage of another two-year levy to raise another $10 million dollars through property taxes in 2016 and 2017.[76] This success in Boise indicates that even in conservative parts of the Mountain West, the case can be made at the local level for open space protection that provides a variety of environmental benefits.

F. Favorable Taxation for Non-Profits Assisting Environmental Goals of Comprehensive Plans

Local environmental regulations have also assisted private environmental groups to retain non-profit status by engaging in activities that assist comprehensive plan goals related to open space. For instance, in 1990, the Pecos River was designated as a Wild and Scenic River.[77] A not-for-profit organization, Pecos River Open Spaces, Inc., acquired land along the river to preserve it in its natural state and thereby contribute to the preservation of the environment and ecology of the Pecos River Canyon. When the not-for-profit claimed property tax exemption, San Miguel County filed suit alleging that conservation was not a charitable purpose under New Mexico law sufficient to grant the exemption.[78] In deciding that this conservation property constitutes a charitable use, however, the New Mexico Court of Appeals cited the San Miguel County Comprehensive Plan goals of having "Open Land, Aesthetics [,] and Views Protected"; that the San Miguel County residents wanted to incentivize preservation through "Conservation Easements [and] Transfer and Purchase of Development Rights"; and that the Plan explains that the residents wish to "Keep the Pecos River Wild and Scenic."[79] As a result, the court held that conservation was a charitable use providing a substantial benefit to the public sufficient to receive the tax exemption under state law.[80] Although the facts of this case are unusual, it does illustrate the importance that comprehensive plan goals can have in assisting non-governmental actors in working towards conservation purposes.

G. Species Protection and the Local Alternative

The perennially uneasy relationship between local communities and the federal government in the West is exacerbated by U.S. Fish and Wildlife Service (USFWS) attempts to list species as threatened or endangered under the Endangered Species Act (ESA). Local governments, as well as state governments, have responded with habitat protection land use tools to avoid listing.

To protect the Gunnison Sage-grouse and avoid its listing as an endangered species, Gunnison County, Colorado developed planning and regulatory systems, and participated in various intergovernmental actions that address threats to the Gunnison Sage-grouse. The County organized a strategic committee comprising community stakeholders and federal, state, and local government representatives.[81] The committee prepared a conservation action plan that was adopted by the County to guide sage grouse conservation efforts.[82] The County also adopted regulations for development proposed in Gunnison Sage-grouse habitat areas requiring mitigation and

compliance with the Sage-grouse habitat conservation action plan.[83] The County also entered into intergovernmental agreements with 10 Colorado counties and a Utah county, as well as a conservation agreement with the USFWS and the states of Colorado and Utah.[84] Nevertheless, the USFWS listed the Gunnison Sage-grouse as a threatened species.[85] In June 2015, the State of Colorado sued the USFWS claiming its decision to list the species was not supported by scientific evidence.[86] Gunnison County and the Gunnison County Stockgrowers Association intervened.[87] The court has not yet decided this case.

Similarly, in hopes of avoiding a federal listing, wildlife officials from 5 states, including New Mexico, developed the Lesser Prairie Chicken Range-wide Conservation Plan.[88] Companies that voluntarily enroll in the plan must mitigate unavoidable impacts to habitat by paying landowners to perform bird-friendly grazing, brush management, prescribed burning and native plant restoration, and to secure permanent protections for certain lands.[89] In September 2015, a federal judge vacated USFWS's listing rule of the Lesser Prairie Chicken in a response to a lawsuit filed by several states.[90] In November 2015, a federal judge dismissed most of a ranching coalition's lawsuit challenging actions by the Forest Service to fence off areas within federal grazing allotments to protect the endangered New Mexico meadow jumping mouse.[91]

III. Recognizing and Planning for Nature's Hazards

The Mountain West's rugged and varied topography have long subjected urban environments to ruin. Snow melt subjected western cities to floods, and wildfire has always been a part of the landscape. But rapid urban growth, and especially rapid growth in the wildland-urban interface over the last few decades, coupled with climate change and other factors are increasingly complicating the Mountain West's ability to respond to and plan for larger, complex natural hazards. In addition, the West's hazards, such as wildfire and flooding, increasingly come in tandem as one disaster increases the likelihood of another and are accompanied by erosion and landslides.[92] This section will focus on precisely these two hazards—flooding and wildfire—as emblematic of how local governments in the region are using the threat of natural hazards to plan for safety while also achieving other environmental benefits along the way.

A. Collecting and Disseminating Information about Hazards

Chief among the planning for natural hazards is a variety of data collection and informational activities that often involve a variety of agencies working at different levels of government. One type of informational project seeks to explore and model future hazard events in order to plan for such events. For example, from 2013 to 2015, the U.S. Geological Survey, in cooperation with the Bernalillo County Natural Resources Services, conducted a prewildfire study to determine potential for postwildfire debris flows in the Sandia and Manzano Mountains of central New Mexico[93] as a part of the Rio Grande Water Fund, a groundbreaking watershed protection project.[94] The goal of the report was to provide information on where the most serious potential debris-flow hazards might arise in the event of a large-scale wildfire and subsequent rainfall in the study area.[95] Another type of information project is being conducted by the University of Idaho College of Law in association with the Idaho Department of Lands and

local governments throughout the state.[96] The goal of the project is to inventory existing local regulations related to wildfire both to establish a legal baseline of existing regulation, and also to serve as a source of best practices for use in the varied geographic and socio-economic contexts of the state.[97] A third type of informational project are those that seek to investigate past hazard events with a goal of highlighting successes and also cataloguing lessons for the future. This is exemplified by *A September To Remember: The 2013 Colorado Flood Within The Urban Drainage and Flood Control District*, which detailed how the district performed during the largest flood to hit Colorado in recent history. A fourth type of informational project exists where a state agency aims to provide assistance and capacity to local governments in structuring local plans for natural hazards. A good example of this is the work of the Colorado Resiliency Framework.[98] This type of informational guide gives local communities a language and a planning structure for thinking about the interconnectedness of hazards within an adaptive framework—long a hallmark of scientific literature—and applying it to how we plan urban environments.[99] For instance, one publication of the framework provides illustrations of how drought increases risks related to forest pest infestations and wildfire as well as soil-related hazards, including subsidence and contraction of expansive soils.[100] Similarly, floods are most frequently caused by high precipitation; however, drought conditions may lead to soil compaction, and severe wildfires can leave a slope unable to hold water.[101] Such publications facilitate local governments' ability to comprehend the issues around natural hazards and to better implement and enforce their existing hazards ordinances.

B. Planning for Wildfire

Beyond the variety of informational approaches to addressing natural hazards, several jurisdictions have taken exemplary actions to plan for future events that are worthy of some discussion. Among those is Flagstaff, Arizona's efforts to use land use planning to address the threat of wildfire in the wildland-urban interface around the city. The city was faced with a history of catastrophic wildfires near the city. In 2002, the Rodeo-Chediski Fire, located 125 miles southwest of Flagstaff, burned more than 468,000 acres, caused 50,000 evacuations, and destroyed over 480 structures.[102] Fires near the city in 2004 and 2010 filled the sky with smoke for weeks, degraded treasured viewsheds, and destroyed popular recreation sites.[103] The 2010 fire also resulted in post-fire flooding that killed a 12-year-old girl and saw heavy ash debris flows and downstream erosion damage homes, a major water pipeline, and cost over $130 million in suppression and recovery costs.[104]

The result of this ongoing pressure from wildfire events has resulted in a comprehensive local result that represents both public investment in proactive wildfire planning as well as a series of regulatory measures that govern future private investment. For instance, in November 2012, a $10 million bond was approved that provided funds to implement wildfire risk reduction measures and mitigate post-fire flooding impacts within the Rio de Flag and Lake Mary watersheds.[105]

In 2008, the city adopted the International Code Council's International Wildland-Urban Interface Code (IWUIC) with local amendments, a move preceded by decades of work by local fire department staff working with the Community Development Department staff to

develop administrative procedures.[106] The fire department also conducted stakeholder outreach that included extensive discussions with the homebuilders association, local real estate and insurance agents, community leaders, engineering firms, developers, and others.[107] Other codes were also updated to reflect wildfire preparation. For instance, Flagstaff's Zoning Code has a Resource Protection Overlay Zone, which requires compliance with standards to ensure the protection of natural resources, including floodplains, steep slopes, and forests to help "manage healthy and sustainable forests to reduce fire risk."[108] In addition, Flagstaff's regional plan also directly addresses wildfire in sections on climate change and adaptation, ecosystem health, and ongoing cooperative watershed protection efforts.[109]

C. Planning for Floods

Another exemplary model of local planning for and managing natural hazards is Denver's Urban Drainage and Flood Control District (UDFCD), which was created by the Colorado legislature after severe thunderstorms in June 1965 sent a volume of water 40 times greater than normal down the South Platter River toward Denver.[110] It was the most costly flood ever in Denver at the time, destroying over 25 bridges, inundating over 250,000 acres of plains farmland, and causing over $2.2 billion in damages.[111] In response, the Colorado legislature created the UDFCD to assist local governments in the Denver metropolitan area with multi-jurisdictional drainage and flood control efforts.[112] In addition, legislation required the agency to work with recreation districts, municipalities, and other stakeholders to use drainageways for parks and other recreational opportunities.[113] The UDFCD began operating in 1969; in 2013, it served an area of over 1,600 square miles and operates four programs—a flash flood prediction program; a floodplain management program; a maintenance, design, and construction program; and a master planning program—with a $30 million budget.[114]

The UDFCD system was tested in 2013 when the Denver region was again visited by a massive flood. The flood came in September, an unusual month for flooding in the region, when a torrent of rain dropped a year's worth of rain in less than a week.[115] The destruction included nine lives lost, over $2 billion in public and private property damages, thousands of people displaced from their homes and businesses, and many roads and bridges washed out.[116] In addition, in areas where recent wildfires had occurred, flood flows and sediment loads were significantly higher and posed special dangers to property within the downstream of the fire zone.[117]

Despite the damage caused by the flood, it was generally perceived that the UDFCD had done tremendous work in minimizing what might have been a catastrophic flood event. In *A September to Remember*, the District engaged with its response in the event. Among lessons learned from the District's response were a reiteration of the fact that the Denver region has always been, and will continue to be, susceptible to large flooding events.[118] However, the basic design principles that undergirded the UDFCD—fixing existing problems and keeping new development out of the 100-year floodplains—had been effective.[119] While population in the UDFCD area had tripled since the District's origins in 1969, there were approximately 5,000 fewer structures in mapped floodplains at the time of the 2013 flood.[120] This had resulted from the panoply of UDFCD programs of master-planning, flood-

plain management, design, construction, and maintenance of flood mitigation projects.[121] However, the UDFCD also noted that there was significant damage beyond the regulatory 100-year floodplains, thus indicating, at a minimum, the need to fortify first-responder facilities above the 100-year floodplain and consider more broad regulatory authority.[122]

D. Planning for Hazards in Comprehensive Plans

In addition to these best practice examples, several other approaches are worth noting. One approach is to require local governments to identify natural hazards in their comprehensive planning statutes. Idaho requires all local government comprehensive plans to engage in an "analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards."[123]

E. Providing Residents Economic Incentives to Prepare for Natural Hazards

A cutting edge program just underway provides residents economic incentives to prepare for natural hazards. Boulder County, Colorado's Wildfire Partners program, which is supported by the county and run on state and federal grants, provides western county residents intensive training in fire mitigation.[124] Through the program, properties are also assessed for their wildfire danger and efforts are made to increase the property's resilience.[125] The program has two unusual benefits: a rebate of several hundred dollars to cover costs, and a certificate accepted by a few insurance companies as proof of adequate fire mitigation sufficient to reduce rates.[126]

IV. Greening Urbanism

Globally, cities only take up 2 percent of landmass area, yet are responsible for two-thirds of the world's energy use, with residents producing 70 percent of global carbon emissions.[127] For those reasons, cities have increasingly become a centerpiece for focusing on climate mitigation strategies. Given the effects of climate change the Mountain West will face, resilience and adaptation to climate change are equally important considerations.[128] The response of Mountain West cities has been remarkable considering that many Mountain West states and their neighbors, including Arizona, Colorado, Idaho, Montana, South Dakota, Utah, and Wyoming, are suing to block implementation of a federal climate change response.[129] The Mountain West's leading cities, however, are showing an intent to offer a robust response to climate change, as well as an increasing interest in lessening the environmental footprint of urbanism generally. Here is a sampling of the variety of green urbanism projects—by no means exhaustive—that are being undertaken by several of the Mountain West's largest cities.

A. Climate Action Plans and Sustainability Plans

Guiding many Mountain West cities' green urbanism initiatives is either a climate action plan, which typically focuses upon measures intent on mitigating and adapting to climate change, or a sustainability plan, which often addresses climate considerations alongside other aspects of civic sustainability like housing, food safety, and sundry other issues. These plans are typically non-enforceable;

however, they do provide guidance towards the types of policies the city intends to support. In some cases, those policies become ordinances, or otherwise govern substantial purchasing decisions either in the public sector, or in a regulated industry subject to conditions as part of a permit approval process.

Denver is a good example of a city where such a non-binding plan has led to some modest results that could grow larger with time. Denver released its first Climate Action Plan in 2007 with a goal of reducing greenhouse gas (GHG) emissions by 10 percent per capita below 1990 levels.[130] Denver exceed this goal in 2010 through regional strategies in the energy sector, with notable reductions in buildings and transportation.[131] In 2013, the city established the Denver 2020 Sustainability Goals, which called for an absolute reduction of GHG emissions to 1990 levels by 2020.[132] In addition, Denver has set a goal to reduce GHG emissions by 80 percent by 2050.[133]

Denver's updated 2015 Climate Action Plan puts forth a bevy of approaches to how the city can meets its GHG emissions reduction plans. For purposes here, a review of the "essential sector strategies" provides an overview of what the Plan seeks to accomplish.[134] The first sector strategy seeks to improve energy efficiency in buildings.[135] The Plan notes that Denver buildings are the City's largest source of GHG emissions and account for 64 percent of the City's emissions.[136] The City seeks to cut emissions in the building sector by 25 percent by 2020, which it plans to accomplish through updating building energy codes, increasing the tracking and updating of building operations, and providing access to financing for energy efficiency upgrades and renewable energy, among other policies.[137]

A second sector strategy is to lower the City's "electricity emissions factor."[138] Through statewide legislation and voter approval, Denver's electricity provider, Xcel Energy, committed to incorporate more renewable and low-carbon energy sources into its electricity portfolio.[139] This would be on top of the utility's reduction in carbon emissions of 26 percent between 2005 and 2014.[140]

A third sector strategy is to better link land use and transportation planning. Denver seeks to reduce single occupant vehicle commuting travel to no more than 60 percent of all trips by 2020, which would be a reduction of roughly 15 percent from the 2012 level.[141] Mass transit infrastructure, supporting sustainable growth and urban infill, and encouraging shifts in travel behavior are among strategies the City plans to pursue.[142]

Salt Lake City has taken a similarly aggressive climate plan to that of Denver while also placing it within a broader sustainability context. Salt Lake City's broader sustainability plan, dubbed *Sustainable Salt Lake—Plan 2015*, announces both strategies and targets in the following categories: air and climate, energy, recycling and materials management, transportation, open space, urban forestry, water resources, arts and culture, community health and safety, housing, food production and nutrition, and education.[143]

Among the targets regarding climate are reducing vehicle miles traveled in the city by 6.5% and increasing use of alternative transportation to 50% of City employee commute trips. The City also plans to increase clean and alternative-fuel vehicles to 15% of the City's fleet; reduce GHG emissions from City operations by 13%, to 72,400 tons annually; and reduce GHG emissions 10%, to 4.7 million tons annually, through transportation and

energy strategies. In addition, the City plans to develop a climate adaptation plan and incorporate strategies into city planning processes.

With regard to energy, Salt Lake City's targets include increasing renewable energy generation on City facilities to 2.5 megawatts, generating 10 megawatts of solar energy throughout Salt Lake City, and decreasing energy use in City buildings by 10%. The City plans to increase energy-efficient buildings citywide by 10% and launch an Energy Efficiency Revolving Loan Fund and make $250,000 in loans for building efficiency upgrades. With regard to transportation, the City plans to complete and open a streetcar line and complete a citywide streetcar network plan, in addition to other rail and transit projects.

Other projects address the City more broadly. For instance, some targets address urban forestry through projects such as completing and updating a city-wide tree inventory to include a vulnerability rating of each tree based on size, age, condition, location, species, and future climate impacts.

Targets related to water include developing a comprehensive decision-making framework that addresses environmental protection, mountain transportation, wilderness designation, and the balance of uses within the Wasatch watersheds, preserving an additional 10% of Wasatch watershed lands.[144]

Perhaps the most aggressive non-binding plan announced, however, belongs to Las Vegas, which has challenged itself to become the nation's first net-zero energy, water, and waste city.[145] As part of this initiative, the City has constructed more than one million square feet of municipal green buildings, including 18 LEED facilities; a 30-facility solar system producing 5.25 Megawatts of solar energy; and more than 80 percent of the city's 50,000 streetlights have been upgraded with LED bulbs.[146] Comingled recycling at all city facilities has raised recycling rates to 55 percent, up from 20 percent five years ago.[147] The city has also reduced its municipal water consumption by 27 percent since 2008 through turf conversions, xeriscaping, and equipment installations throughout city facilities.[148] The efforts of the City have caused a stir in the real estate market with some developers seeking to scale net zero residences—typically too expensive for average consumers—to mass-market production for sale in Las Vegas.[149] In this way, the City's ambitious leadership may be assisting in creating a market for net zero consumer residences.

B. Sustainable Neighborhoods Programs

Beyond such climate and sustainability plans, Mountain West cities are also leading the way with alternative approaches to greening the city. For instance, Denver's Sustainable Neighborhoods Program offers neighborhoods a sustainability certification for earning program credits for their efforts and, depending on the number of credits earned in a given year, they may receive designation as a "Participating Sustainable Neighborhood" or an "Outstanding Sustainable Neighborhood" from the City.[150] Informational workshops help residents learn how to bring sustainable practices to their individual homes.

C. Other Programs

In addition some cities, like Denver, are offering free consultations to businesses seeking to "green" their operations, which could also ultimately yield a certification as a green business.[151]

Cities like Phoenix, where climate change is already affecting the urban heat island effect, are focusing on adaptation practices to keep southwest cities livable. The City of Phoenix's 2014 Cool Urban Spaces Report provides a study of the effects of the City's Cool Roofs and Tree and Shade Master Plan.[152] The study evaluated how these heat mitigation efforts affect the urban heat island in the Phoenix metropolitan area. The study found that increasing tree canopy cover from 10 percent to 25 percent leads to an additional temperature reduction of 4.3 degrees Fahrenheit, which is a total cooling benefit of 7.9 degrees Fahrenheit as compared to a bare neighborhood. Such reports can form the basis for long-term projects that will play a substantial role in keeping cities of the southwest attractive.

V. Old West Industries and New Problems

Horizontal drilling and hydraulic fracturing presented problems as the density and intensity of oil and gas development spread to areas targeted for new residential development or into recreation and tourist areas. Two Colorado Supreme Court cases in 1992 paved the way for local governments to regulate oil and gas through land use regulations by rejecting arguments that the Colorado Oil and Gas Conservation Commission (COGCC) occupied the entire field of oil and gas development. In 1992, the Colorado Supreme Court decided *Voss v. Lundvall Bros., Inc.*,[153] in which it held that the State's Oil and Gas Conservation Act preempted a home-rule city from enacting a land-use ordinance that imposed a total ban on drilling of any oil, gas, or hydrocarbon wells within the city. In a companion case, however, *Board of County Comm'rs of La Plata County v. Bowen/Edwards Assoc. Inc.*,[154] the Court held that the Oil and Gas Conservation Act did not preempt county's authority to enact land-use regulations for oil and gas operations within county. The result was that while local governments could not ban drilling, then could use land use controls to regulate drilling that they did permit. In *Board of County Comm'rs of La Plata County v. Colorado Oil and Gas Conservation Commission*,[155] the Court held that a rule promulgated by the Colorado Oil and Gas Conservation Commission, which dealt with permits to drill, was invalid on its face in that it preempted all local government actions regarding drilling beyond those that materially impeded or destroyed the state's interest. Finally, in *Board of County Comm'rs of Gunnison County v. BDS International, LLC*,[156] the Court reviewed local regulations of oil and gas producers and found some were preempted by state law, but permitted other local regulations to stand.

Influenced by efforts in New York and Pennsylvania to stop hydraulic fracturing, which included landmark decisions favorable to local government control such as Pennsylvania's *Robinson Twp. v. Commonwealth*,[157] citizens in four communities in Colorado voted to impose bans or moratoria on hydraulic fracturing.[158] In 2012, the COGCC and the Colorado Oil and Gas Association (COGA), an industry trade group, sued the City of Longmont claiming the ban was preempted by state law.[159] In a companion case, COGA sued Fort Collins claiming that its moratorium also was preempted.[160] Released on the same day, the two cases collectively held that a ban of hydraulic fracturing was preempted by the state oil and gas law and that a five-year moratorium was similarly pre-empted.[161] However, the cases did not rule out that other land use regulations may be permissible, such as a shorter moratorium, though the court did not

enumerate or address the viability of any particular alternative.[162]

A. Mora County, New Mexico's Community Rights Approach to Regulating the Environment

In 2013, the Mora County Commissioners adopted the "Mora County Community Water Rights and Local Self-Government Ordinance," which effectively banned all oil and gas production in the County.[163] The ordinance was part of a larger, national trend led by a group called the Community Environmental Legal Defense Fund, which has assisted over 150 local governments across the country in passing similar "community rights" ordinances. The community rights proclaimed by these ordinances are almost identical, typically invoking rights such as the right to pure water, clean air, peaceful enjoyment of home, a sustainable energy future, and the rights of natural communities.[164] The radicalism of these ordinances is not so much the proclamation of such rights, but instead is the underlying legal claims they make to support such rights. The ordinances announce that the local governments maintain a fundamental right of local self-governance, which they argue derives from the history of pre-Revolution local government autonomy that was preserved by the Declaration of Independence and the Ninth Amendment of the Constitution.[165] Further, the ordinances proclaim that this self-governance right trumps established norms of federal supremacy and preemption, as well as established norms of local government subordination to state governments ensconced in Dillon's Rule.[166] The ordinances also deny corporate personhood, and thus purport to strip corporations of the constitutional rights afforded to them.[167] Each of these three justifications is as much a provocation as a serious legal argument; absent an upheaval of Supreme Court precedent that restructures state and federal power, as well as the rights of corporations, these rationales will certainly fail in the courts. Indeed, the first such failure was when the Mora community rights ordinance was challenged and the federal district court struck it down.[168]

Nonetheless, the appeal of the community rights movement is that it argues for local environmental control in the most radical of manners. The arguments made by proponents may be scoffed at by the legal establishment ensconced within the rule of law, but to ordinary citizens, such laws have appeal because they argue against the ability of more distant organs of government to control what happens locally. The problem, however, is that this particular approach is unlikely to yield success in protecting the environment while there are many other approaches, such as those illustrated in this chapter, which yield substantial environmental benefits within the scope of existing law.

B. Heap Leach Mining, Cyanide, and Other Chemical Concerns

In the early 2000s, Summit County, Colorado adopted regulations that banned the use of cyanide in mining.[169] In 2009, the Colorado Supreme Court struck down the ban as preempted by the state mining laws, but acknowledged that the County might be able to restrict mining to certain zones.[170]

Plans by eastern states to dispose of their low-level radioactive waste "out west" raised the specter that the Mountain West could become a dumping ground for the nation's low-level radioactive waste.[171] In the mid 1980s, the states of Colorado, New Mexico, and Nevada created the Low-level Radioac-

tive Waste Compact.[172] Congress approved the Rocky Mountain Compact (Compact) in 1985, as well as other interstate compacts across the country.[173] The US Supreme Court upheld the compact system in 1992.[174] The Compact allows the Compact board to prohibit the import of low-level radioactive waste into the Compact region in exchange for the member states' promise to accommodate the disposal of low-level waste generated within the region.[175] The right of compacts to exclude out-of-region waste was challenged by Energy Solutions when it sought to import low-level waste to a facility in Utah without complying with the requirements of the Northwest Compact.[176] The 10th Circuit Court of Appeals upheld the exclusionary authority in 2010 against commerce clause challenges because Congress had approved the exclusionary powers when approving low-level radioactive waste compacts in 1985.[177]

The State of Colorado Radiation Control Division approved a facility in Adams County that allows disposal of certain naturally-occurring radioactive material (NORM).[178] Adams County sued the State claiming that the facility violated County siting laws for waste disposal facilities.[179] The Colorado Supreme Court ruled against Adams County.[180] Adams County recently approved another facility under its solid waste regulations that will accept NORM with radiation levels less than those regulated by the State.[181]

VI. Re-envisioning Regionalism

Like most areas of the country, the Mountain West's urban regions sprawl and bleed across political jurisdictional bounds that are often not reflective of the ecosystems or watersheds in which those cities are located. It has long been a struggle to find a way to address regional environmental problems that are highly dependent upon land use decision making, which has almost always resided among the many local governments of a region.

A notable trend to address some of these problems arose through a series of interstate compacts were coming to the fore. Although the impetus to such compacts was the rapid rise of the need for inter-state land use planning, it seemed that these compacts might signal a new era of regional planning dawning in the United States. At least seventeen such interstate compacts exist across the country. Those in the Mountain West including the Tahoe Regional Planning Authority, which governs land use and environmental planning in the Lake Tahoe Basin;[182] the Northwest Power Planning Council, which is comprised of the States of Idaho, Montana, Oregon, and Washington for purposes of developing a regional power plan and fish and wildlife program to balance the Northwest's environment and energy needs;[183] and the granddaddy of all such interstate compacts, the Colorado River Compact, the 1922 agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming to provide for the equitable division and apportionment of the use of the waters of the Colorado River System.[184] But even with these regional planning efforts, the moment of planning beyond the local governmental jurisdiction and, instead, considering planning on a landscape scale or a watershed scale, passed away. The much heralded "quiet revolution" in land use, in which regional governance, and perhaps even a strong federal presence, might come to overturn the old acquiescence to local land use planning decisions never fully arrived.

Today, there are a hodge-podge of regional

governments throughout the Mountain West, most of which are advisory and with relatively little governance power. Among these are those metropolitan planning organizations, which are necessitated to obtain federal transportation dollars. There is the occasional successful intergovernmental special district that operates effectively, such as the previously discussed Urban Drainage and Flood Control District in Denver. There are also the unsuccessful regional strategies. Chief among them may be the Ada County Highway District (ACHD), which was created through voter approval in the Seventies to manage the roads in the county that surround Boise, Idaho. In an unusual approach, ACHD owns not only the roads and right-of-ways in the county, but also within the cities.[185] The relationship between ACHD and the cities it serves has been tense almost from the start and remains so today. In a time when most cities are trying to link land use and transportation planning, Boise is uniquely burdened with a system in which the city must make land use decisions independent of transportation implications dedicated to a separate entity. This example, however, is not that unusual in illustrating a failure to plan for land use and environmental concerns that remains largely elusive across the Mountain West, just as it does across the rest of the country.

There is, however, a singular success in the Mountain West, the Envision Utah[186] process, which has emerged as a hallmark of regional thinking for land use and environmental planning. The history of Envision Utah is well told by a Brookings publication, from which this description here borrows.[187] Envision Utah, a small non-profit, began in 1995 as an effort by political, business, and civic leaders concerned with a lack of economic and population growth in the state, as well as a "brain drain" to larger cities.[188] When the Envision Utah project started, the urbanized area along the Wasatch Front were already exhibiting negative aspects of growth—traffic and visible air pollution—and growth projections estimated the area growing from 1.6 million to 2.7 million in 2020 and 5 million in 2050.[189] In a conservative political climate, a 100-person public-private steering committee was assembled because of their influence over public policy.[190] The steering committee began with a study of community values related to quality of life, which indicated that residents viewed Utah as a "safe haven, where others shared their common sense of honesty, morality, and ethics," and also that residents prioritized "Utah's scenic beauty and recreational opportunities."[191]

In 1998, the process began to engage the public with a "chip game" where participants placed chips on maps, representing housing for all the projected population.[192] In so doing, participants realized that housing all the projected growth in low-density sprawling patterns was difficult and violated their own values of place. Through the public engagement process of thousands of people, support for a high density option emerged.

Next, the project disseminated in 1999 its "Quality Growth Principles," rather than a conventional plan for land use, transportation, or open space. The principles set out seven goals: improving air quality, promoting housing options, creating transportation choices, encouraging water conservation, preserving critical lands, supporting efficient infrastructure, and exploring community development. These goals were very broadly advertised.

Leadership in the Envision Utah project then engaged local planners and local government, which they deemed the only acceptable

method of implementation. Envision Utah staff and consultants created a number of "toolkits" for local jurisdictions who took up the effort to implement the principles at their own pace. Over time, local governments warmed to the efforts of the Envision Utah's Steering Committee, which continued to stay involved. Envision Utah staff conducted hundreds of visits to local planners and politicians, and conducted multiple workshops explaining the goals. By 2003, there was nearly universal awareness of the goals by planners in the region, and a number of jurisdictions had begun to consider policy changes that would allow higher density housing.[193] Since that time, the Salt Lake City region has emerged as one of the most unlikely successes among Mountain West communities, and the country at large, in planning for its future growth. It remains perhaps the most successful, and influential, model of regional approaches to land use and environmental planning in the Mountain West, and perhaps also the country.

VII. The Next 25 Years of Local Environmental Law

Just as the last twenty-five years have seen the increased prominence of local environmental law, so, too, are the next twenty-five years likely to see that effort flourish. The growth of international organizations aimed at bringing together local governments around environmental themes, such as ICLEI, C40, the Compact of Mayors, UN Habitat, and the Rockefeller Foundation's Resilient Cities program, all illustrate that local governments are increasingly viewed as important partners even in global environmental issues. Another sign of the movement's progress includes the Obama administration's convening of the State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience.[194] Such federal recognition of local partners speaks, in part, to the broken relationship between a liberal federal government and many conservative states. On the other hand, it is a recognition that local governments in urban regions now play an outsized political importance in American life. Momentum towards that recognition has been gaining at least since the 1909 *Report of the Country Life Commission*, a landmark report of the Teddy Roosevelt administration that acknowledged the end of the country's rural majority, as well as the hard choices for the places in between as the nation rushed to its cities' teeming streets.[195]

In the Mountain West, where state populations are concentrated in just a couple urban regions, empowered cities can be especially effective partners in planning for a strong environmental presence. Perhaps what cities in the region need now, more than ever, is some center from which to base the disparate strands of this local environmentalism. Thus far, local environmentalism has tended to be more policy toolkit and less political vision. Whatever marriage of policy and politics emerges in the Mountain West's local environmental future, it will likely work best when it works to temper the conflicts between the economies of the region's past and the dreams of those who move to the region for a new life.

NOTES:

[1]Garrett Hardin, *The Tragedy of the Commons*, 168 Science 1243 (1968).

[2]*But see* E. Ostrom, Governing the Commons: The Evolution of Institutions for Collective Action (1990).

[3]*See* John R. Nolon, *In Praise of Parochialism: The Advent of Local Environmental Law*, 26 Harvard Envtl. L. Rev. 365 (2002).

[4]For a general discussion of the evolution of local environmental regulation, see John R. Nolon, Protecting the Environment Through land Use Law: Standing Ground (2014); William R. Travis, New Geographies of the American West: Land Use and the Changing Patterns of Place (2007).

[5]U.S. Census, *Population Distribution and Change: 2000 to 2010* 2 (2011), https://www.census.gov/prod/cen2010/briefs/c2010br-01.pdf; U.S. Census, *Population Change and Distribution: 1990 to 2000* 3 (2001), https://www.census.gov/prod/2001pubs/c2kbr01-2.pdf.

[6]U.S. Census, *Population Change and Distribution: 1990 to 2000* 3 (2001), https://www.census.gov/prod/2001pubs/c2kbr01-2.pdf.

[7]U.S. Census, *Population Distribution and Change: 2000 to 2010* 2 (2011), https://www.census.gov/prod/cen2010/briefs/c2010br-01.pdf.

[8]U.S. Dept. of Agric., *Shifting Geography of Population Change*, http://www.ers.usda.gov/topics/rural-economy-population/population-migration/shifting-geography-of-population-change.aspx.

[9]David F. Damore, *The Impact of Density and Diversity on Reapportionment and Redistricting in the Mountain West*, 43 Issues in Governance Studies 2–3 (2012), http://www.brookings.edu/~/media/research/files/papers/2012/1/26-redistricting-damore/0126_redistricting_damore.pdf.

[10]See D.E. Booth, *Spatial Patterns in the Economic Development of the Mountain West*, 30 Growth and Change 384, 299 (1999) ("On the one hand, the beauty of the landscape and other amenities are attracting population and income. On the other hand, access to regional metropolitan centers continues to be an important element in locational decisions. The net result is that counties outside the commuting range of these metropolitan centers, but with close access and good interstate connections have greater population densities and more growth in densities than less accessible counties.").

[11]See *infra* Section II.

[12]R.B. Hammer, S. Stewart & V.C. Radeloff, *Demographic trends, the wildland-urban interface, and wildfire management,* 22 Soc. Nat. Res. 777 (2009).

[13]See William E. Mell, *The wildland–urban interface fire problem—current approaches and research needs*, 19 International Journal of Wildland Fire 238 (2010).

[14]Andrew J. Hansen, et al., *Effects of Exurban Development on Biodiversity: Patterns, Mechanisms, and Research Needs*, 15 Ecological Applications 1893 (2005), http://noss.cos.ucf.edu/papers/Hansen%20et%20al.%202005.pdf.

[15]Headwaters Economics, *Solutions to the Rising Costs of Fighting Fires in the Wildland-Urban Interface* 11 (2009) (county-by-county study of the 11 continental western states found 14 percent of the available WUI in the West is currently developed, leaving potential for new home construction in the remaining 86 percent (more than 20,000 square miles)."), http://www.iawfonline.org/HeadwatersFireCosts.pdf.

[16]U.S. Global Change Research Program, *2014 National Climate Assessment: Northwest* (2014), http://nca2014.globalchange.gov/report/regions/northwest.

[17]*Id.*

[18]*Id.*

[19]U.S. Global Change Research Program, *2014 National Climate Assessment: Southwest* (2014), http://nca2014.globalchange.gov/report/regions/southwest.

[20]*Id.*

[21]*Id.*

[22]*Id.*

[23]*Id.*

[24]Congressional Research Service, Federal Land Ownership: Overview and Data 4 (2014), https://www.fas.org/sgp/crs/misc/R42346.pdf. Federal ownership in Mountain West states is as follows: Arizona (39%); Colorado (36%); Idaho (61%); Utah (65%); Nevada (85%); and New Mexico (35%).

[25]*See* Alan Feuer, *The Ideological Roots of the Oregon Standoff,* N.Y. Times (Jan. 9, 2016), http://www.nytimes.com/2016/01/10/opinion/sunday/the-ideological-roots-of-the-oregon-standoff.html?_r=0; Glen Beck & Harriet Parke, Agenda 21 (2013) (dystopian novel based on Agenda 21 as a plot to dehumanize Americans).

[26]Arthur Chapman, Out Where the West Begins (1917).

[27]Daniel R. Mandelker, NEPA Law and Litig. § 12:2 (2015) (providing summary table of all state environmental review statutes).

[28]Park County, Co. 1041 Regulations for Wildlife Habitat Areas, at §§ 2-102, 2-104, http://www.parkco.us/189/Land-Use-Regulations.

[29]Clark Cty., Nev., Zoning Code § 30.48.280, http://www.clarkcountynv.gov/comprehensive-planning/zoning/Documents/3048.pdf.

[30]*Id.* at § 30.48.330(e)(1)(A)–(B).

[31]*Id.* at § 30.48.330(b)(1).

[32]*Id.* at § 30.48.330(b)(2).

[33]*Id.* at § 30.48.330(b)(3).

[34]*Id.* at § 30.48.330(b)(4).

[35]*Id.* at § 30.48.315(a).

[36]Western Governors' Ass'n, *Initiative on Wildlife Corridors and Crucial Habitat*, http://www.westgov.org/wildlife-corridors-and-crucial-habitat; Western Ass'n of Fish & Wildlife Agencies, *Crucial Habitat Assessment Tool: Mapping Fish and Wildlife Across the West*, http://wafwachat.org/map.

[37]Western Governors' Ass'n, *State, Federal, Local and Private Entities Collaborate to Build Wildlife Crossings along a 12-Mile Stretch of Highway 89 in Southern Utah* (2014), http://westgov.org/images/dmdocuments/WGA%20Utah%20Case%20Study%20April%202014.pdf.

[38]Town of Crested Butte, Colorado, Ordinance No. 4 (2013) (adopting Watershed Protection District Regulations) http://www.crestedbutte-co.gov/vertical/sites/%7B6058FFBB-CB06-4864-B42F-B476F794BE07%7D/uploads/Ord._No._4.pdf.

[39]Colorado Revised Statutes, § 31-15-707(1)(b).

[40]Town of Crested Butte, Colorado, Municipal Code §§ 14-2-30, 14-2-100.

[41]*Id.* at §§ 14-3-70 - 14-3-110; 14-3-150.

[42]*Id.* at § 14-6-10—14-6-20.

[43]Anne Knowles, *Warm water causes concern on Carson River watershed*, Nevada Appeal (June 10, 2015), http://www.nevadaappeal.com/news/local/16726832-113/warm-water-causes-concern-on-carson-river-watershed#.

[44]John Coburn & Steven R. Lewis, Floodplain Protection Inventory for the Carson River 3 (2015), https://www.unce.unr.edu/publications/files/nr/2015/sp1505.pdf.

[45]*Id.*

[46]*Id.*

[47]*Id.* at 5.

[48]Colorado River Compact (1922), https://www.usbr.gov/lc/region/pao/pdfiles/crcompct.pdf; San River Basin Adjudication, Final Decree (2015), http://srba.idaho.gov/finaldecree.htm.

[49]Colorado Revised Statutes, §§ 24-65.1-101, et seq.

[50]City and County of Denver, by and through Board of Water Com'rs v. Board of County Com'rs of Grand County, 782 P.2d 753 (Colo. 1989).

[51]City of Colorado Springs v. Board of County Com'rs of the County of Eagle, 895 P.2d 1105 (Colo.App. 1994).

[52]*Id.* at 1113.

[53]See e.g. Otero County, Colo., Guidelines and Regulations for Areas and Activities of State Interest, http://www.oterogov.com/images/LandUse/guidelinesregs20060814.pdf; Pueblo County, Colo., Pueblo County Code, Areas and Activities of State and Local Interest, http://county.pueblo.org/government/county/code/pueblo-county-code-title-17-division-2-areas-and-activities-state-and-local-interest; Summit County, Colo., Summit County Land Use and Development Code, Areas and Activities of State Interest, http://www.co.summit.co.us/DocumentCenter/Home/View/65; Routt County,

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